IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 2668 of 1998

Between:

Y.Sivaiah S/o. late Pitchaiah
H.No.2-2-383 Upstairs Venkataramana Lay Out,
Tirupathi-517 507

..... PETITIONER

AND

1 The Member-Secretary A.P.S.E.B.,
Vidyuth Soudha Hyderabad
2 The Chiarman A.P.S.E.B.,
Vidyuth Soudha Hyderabad
(dismissed for default as per C.O. dt: 4/9/2001 as against R2)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ, order or direction of like nature a) to declare the action of the respondents in reverting the petitioner to the next lower category as illegal, arbitrary and violative of Art. 14 & 16 of the Constitution of India and in violation of Principles of natural justice, pursuant to the Memo No.DP/DMV/873-R2/9426 dt: 20/6/95 and the consequential memo No.CE/Enq/DMV/813-R-2/94-29 dt: 27/8/96 and to quash the same b) to further declare the action of the respondents in treating the petitioners suspension period of suspension as illegal, void and inoperative c)to further direct the respondents to treat the petitioner as continuously in service from the date of suspension to the date of reversion and pay all consequential and incidental benefits that accrue to the petitioner thereon and pass

Counsel for the Petitioner:MR.V.V.PRABHAKARA RAO

Counsel for the Respondents : MR.MOHD.GULAM RASOOL

The Court made the following :

ORDER:

This writ petition is filed challenging the proceedings No.DP/DMV/873-R2/94-26, dated 20-06-1995 and consequential Memo No. CE/Enq/DMV/813-R-2/94-29 dated 27-08-1996 and to quash the same as arbitrary and illegal and consequently declare the action of the respondents in treating the petitioner's suspension period as such, as illegal and also to direct the respondents to treat the said period as continuously in service from the date of suspension to the date of reversion and pay all consequential benefits that accrue to the petitioner thereon.

It is the case of the petitioner that he joined the respondent Board in the year 1958 as Meter Tester and was promoted in 1961 as Supervisor and further promoted as Assistant Divisional Engineer in 1986. He had unblemished record of service without any adverse remarks all through. However, while working as Assistant Divisional Engineer at Puttoor, a surprise inspection was made by the Deputy Superintendent of Police, Anti- Corruption Bureau on 10-09-1991 on the basis of a complaint purported to have been made that the petitioner had demanded Rs.500/- from one unemployed youth T.R.Jayaraman, whose application for sanction of electrical connection was pending in his office. On the basis of a report submitted by the ACB officials, the petitioner was suspended from service on 18-10-1991. On 13-9-1992 an enquiry officer was appointed. The enquiry was conducted on 23-11-1992 and the enquiry officer submitted his final report on 1-3-1995 holding that the charge as to accepting bribe by the petitioner was not proved. However, the enquiry officer went into the peripheral areas and said that there was some procedural irregularities in maintaining the registers and that resulted in this complaint.

Therefore, the charges are proved to that extent i.e. irregular maintenance of records and held that the charge was proved . On the basis of enquiry officer's report, the Disciplinary Authority on 4-5-1995 issued a show cause notice enclosing a copy of the enquiry officer's report and asking the explanation as to why he should not be dismissed from the service. However, after receiving the explanation on 20-5-1995, the Disciplinary Authority passed final order dated 20-6-1995 inflicting the punishment of reversion on the petitioner and further treating the period of suspension as it is. Aggrieved by the same, the petitioner filed an appeal before the appellate authority and the same was dismissed on 16-9-1995 without properly appreciating the contentions raised by the petitioner.

Aggrieved by the same, the present writ petition is filed. However, in the meanwhile, the petitioner also attained the age of superannuation and retired from service on 30-6-1996.

No counter affidavit has been filed.

The learned counsel for the petitioner strenuously contends that while holding the charge as to receiving bribe by the petitioner was not proved and absolutely there was no evidence went into the irregularities purported to have been committed in the maintenance of records by him and gave a finding that the charge is proved to this extent. The enquiry officer has no business to go beyond the charge and give a finding which is uncalled for. The Disciplinary Authority did not differ with the findings of the enquiry officer. However, accepted the unwarranted remarks made by the enquiry officer holding the charge was proved to the extent of not properly maintaining the records and inflicted a punishment of reversion from the post. This itself shows that somehow the respondents were bent upon to inflict some punishment or the other on an honest officer who had put in long service in the department and occupied the higher position and rank with clean record.

Per contra, the learned counsel for the respondent strenuously contended that the petitioner involved in a case of bribe and though the same was not proved directly, according to the enquiry officer probablised the involvement of the petitioner. Therefore, in a domestic enquiry no further evidence is necessary than what is placed on record and on the basis of the record, the enquiry officer as well as the Disciplinary Authority and the Appellate Authority have rightly taken decision that the charge is proved and punishment of reversion inflicted by the Disciplinary

Authority as confirmed by the Appellate Authority is just and proper in the circumstances of the case.Therefore, the order passed by the Disciplinary Authority and the Appellate Authority does not warrant for any interference in the hands of this court and the writ petition is liable to be dismissed.

I have given an earnest consideration to the respective submissions made by the counsel on either side and also looked into the material placed on record.

The contention of the learned counsel for the petitioner that the enquiry officer has traversed beyond the duty entrusted to him, is not without any substance. The complainant was not examined in the domestic enquiry. Only on the basis of the report of the ACB, the charge was framed and enquiry was launched. None of the Police Officers were also examined in the domestic enquiry. On the other hand, on the basis of the record placed before it, the enquiry officer came to the conclusion that there was absolutely no evidence to show that the petitioner has received the bribe of Rs.500/- from the said Jayaraman. Whereas the finger print test proved negative and it is also finding of the ACB as well as the enquiry officer that the petitioner never handled the money purported to have been given as a bribe by the said Jayaraman. Under those circumstances, the enquiry officer has rightly held that the charge of receiving bribe by the petitioner is not proved either by any direct evidence or indirect evidence. The complainant, Jayaraman was not examined and none of the Police Officers who conducted the raid were examined in the domestic enquiry. The enquiry officer without there being any warranting circumstances went into certain peripheral areas and said that the records maintained by the petitioner was not proper and that resulted in some sort of suspicion and therefore, it must be deemed that at least to the extent of records being not properly maintained, the charge is proved. In fact, such charge was neither framed nor any evidence was let in. Therefore, it was not proper on the part of the enquiry officer to come to such a conclusion. When the Disciplinary Authority accepted enquiry officer's report except this, there was no other allegation since the enquiry officer himself has stated that the charge is not proved in so far as the bribe is concerned. Under those circumstances, the Disciplinary Authority and the Appellate Authority could not have inflicted any major punishment of reversion from the post for trivial irregularities of not maintaining the records properly even assuming that the said charge is proved. For all the above reasons, I am of the considered opinion that the order passed by the Disciplinary Authority as confirmed by the Appellate Authority does not stand the

scrutiny of law.

The Writ Petition is allowed as prayed for. In view of the circumstances, there is no order as to costs.

C.V.RAMULU,J

13-06-2005

Stp

To

1 The Member-Secretary A.P.S.E.B.,
Vidyuth Soudha Hyderabad
2 The Chiarman A.P.S.E.B.,
Vidyuth Soudha Hyderabad
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